

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS  
COUNTY BOARD OF ADJUSTMENT HELD **TUESDAY, AUGUST 16, 2011,**  
NORTHLAND OFFICE CENTER, VIRGINIA, MN, 9:00 a.m. – 11:34 a.m.**

**Board of Adjustment members in attendance:**

Diana Werschay – Chair  
Tom Coombe  
Steve Filipovich  
Kurt Johnson  
David Peterson  
David Pollock

Decisions/Minutes for the following public hearing matters are attached:

**NEW BUSINESS:**

- A. Ron Lockhart, S12, T62N, R17W (Greenwood)
- B. Bruce Erickson, S9, T57N, R17W (Fayal)
- C. Michael Briski, S2, T57N, R16W (unorganized)
- D. Thomas Liston, S6, T63N, R12W (Morse)
- E. David Kohne, S4, T55N, R12W (Ault)
- F. Joseph Olson, S23, T53N, R19W (Meadowlands)
- G. Susan Knauer, S21, T62N, R15W (Breitung)

**OTHER BUSINESS:**

**Motion by Peterson/Coombe** to approve the minutes of the July 19, 2011 meeting.

**In favor:** Werschay, Coombe, Filipovich, Johnson, Peterson, Pollock – 6

**Opposed:** None - 0

**Motion carried 6-0**

**PUBLIC HEARING:**

The first hearing item was for Ron Lockhart, S12, T62N, R17W (Greenwood) at 215 8<sup>th</sup> Street NW, Chisholm. *Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. The property is located on an island.
- B. Lot 6 was improperly divided in 1990.
- C. The applicant purchased the property in December 2010.
- D. A septic permit was issued on June 6, 2011.
- E. There is an existing building on the property.

*Tyler Lampella* reviewed staff's conclusions as follows:

1. The request of the applicant is substantial. The parcel should have been platted when it was created.
2. The variance will not have an effect on government services for the following reason(s): the same level of services would be required if the parcel were platted.
3. If approved, the variance would not change the character of the neighborhood or be

detrimental to the neighborhood. The level and type of development will be similar to the rest of the parcels on the island.

4. Other than recombining this parcel with the east half of Lot 6, there is no other known option other than a variance.
5. The practical difficulty occurred, because a previous owner divided the property improperly.
6. The lot split was completed in 1990.
7. There is a similar parcel in the area. The east half of Lot 6 is similar, however the owner also owns an adjoining lot.
8. The county would benefit by the enforcement of the ordinance if compliance were required because the platting process is in place for reasons listed in Article I Section 3 of St. Louis County Ordinance 33.
9. Staff does not know whether the violation was intentional.
10. There is adequate area on the parcel to treat waste water.

*Tyler Lampella* noted no items of correspondence.

*Ron Lockhart*, the applicant, stated that he thought he was buying half of a lot on Lake Vermilion and found out it was illegally created.

No audience members spoke on the proposal.

## **DECISION**

**Motion by Coombe/Peterson** to approve the variance to allow a subdivided lot of a previously approved platted lot without going through the subdivision process.

**In Favor:** Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

**Opposed:** None – 0

**Motion carried 6-0**

The second hearing item was for Bruce Erickson, S9, T57N, R17W (Fayal) at 4404 Cedar Island Drive, Eveleth. *Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. The proposed addition is based on the architecture and layout of the house.
- B. The applicants had a survey done of the property.
- C. There is a steep bank on the edge of the lake.
- D. There is decent vegetative screening from the lake.

*Tyler Lampella* reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the overall width of the structure will be 56 percent of the lot width where 40 percent is allowed.
2. The variance will not have an effect on government services, because the lot is currently developed and will not require additional services.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because much of Ely Lake is densely developed. The view from the lake will be mitigated by the vegetative screening and the bank near the

shore.

4. Because of the interior layout of the dwelling, the proposed location of the addition makes the most sense. The size of the proposed addition is reasonable.
5. The practical difficulty occurred because of the orientation and layout of the house along with the configuration of the lot.

*Tyler Lampella* noted no items of correspondence.

*Bruce Erickson*, the applicant, stated that the porch is in rough shape and needs to come down. He needs a dining area when he has guests over and an entryway into the cabin. He believes that the addition would improve the cabin and the neighborhood.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* asked about the measurements on the applicant's sketch. *Tyler Lampella* stated that the numbers used in the presentation were taken from the survey which is to scale.
- B. Board member *Filipovich* asked if the applicant's property was on public sewer. *Tyler Lampella* stated that the property is on public septic and water.

No audience members spoke on the proposal.

## **DECISION**

**Motion by Peterson/Werschay** to approve a variance for an addition to a principal structure that will increase the lot width coverage of the dwelling to 56 percent. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. All demolition material and other waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
3. Fayal mitigation points shall be implemented.

**In Favor:** Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

**Opposed:** None – 0

**Motion carried 6-0**

The third hearing item was for *Michael Briski*, S2, T57N, R16W (unorganized) at 8401 Glenbrook Avenue South, Cottage Grove. *Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to build a new cabin located 50 feet from the lake and outside of the shore impact zone.
- B. The existing cabin is about 35 feet from the lake and two feet from the property line.
- C. There is a sauna, garage and bunkhouse on the property.
- D. A new septic system will be installed on the property.
- E. The cabin was configured in order to get use from the garage. The garage doors will face the cabin.

- F. There is fairly decent vegetative screening from the cabin to the lake; more vegetative screening could be used from the garage to the lake.

*Donna O'Connor*, Environmental Services, via report, stated that the Briski cabin is currently served by a privy and a septic system with no permits on file. The existing septic is considered failing by definition. A permit to construct a subsurface sewage treatment system (SSTS) was issued for the Briski property on June 10, 2011. The system is a pressure bed sized for four bedrooms (three bedrooms in the cabin and one in the bunkhouse). The shallow well will be abandoned and a new drilled well will be installed. Expansion area is designated as the area between the new system and Bass Lake Road. The privy is to be removed and all plumbing must be removed from the sauna or the sauna drain shall be tied into the SSTS.

*Tyler Lampella* reviewed staff's conclusions as follows:

1. The request of the applicant is substantial. The applicant is asking for variance(s) of 25 feet (33 percent) from the required lake setback and 5 feet (33 percent) from the required side yard setback and the lot is slightly undersized for the zone district.
2. The variance will not have an effect on government services because the lot is currently developed and will not require additional services.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because most of the dwellings on Bass Lake are closer than 75 feet to the lake.
4. If the garage were removed, a greater lake setback could be achieved for the placement of the new dwelling.
5. The practical difficulty occurred because of the placement of the garage and the small size of the lot.

*Tyler Lampella* noted two items of correspondence from John and Cindy Hall against this variance and from George Lamppe with concerns.

*Jomi Briski*, the applicant, stated that they do not know where their old septic system is located. She added they had a good deal because there are not a lot of septic systems on Bass Lake.

The *Board of Adjustment* inquired about the septic system and the existing privy. *Mary Anderson*, St. Louis County Planner, stated that the privy is to be removed per *Donna O'Connor's* report. *Tyler Lampella* added that there will be a future septic system.

No audience members spoke on the proposal.

## **DECISION**

**Motion by Peterson/Johnson** to approve a variance for a new dwelling located 50 feet from the Ordinary High Water Mark of Bass Lake and 10 feet from the property line. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. All demolition material and other waste shall be disposed of in a manner acceptable to St.

Louis County Solid Waste Ordinance 45.

**In Favor:** Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

**Opposed:** None – 0

**Motion carried 6-0**

The fourth hearing item was for *Thomas Liston*, S7, T63N, R12W (Morse) at 2326 Echo Valley Drive, Stow, OH. *Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an addition to the side of a nonconforming dwelling located 28 feet from Minister Lake, a Natural Environment lake.
- B. No structures are allowed within 150 feet of the shore of a Natural Environment lake.
- C. The location of the structure from the lake does not meet 25 percent of the shoreline setback as required by ordinance.
- D. The proposed addition exceeds the allowable size based on the lake setback formula from Article IV, Section 3.02G and is located within the shore impact zone.
- E. There is an existing garage and sauna on the property located at the 150 foot lake setback.
- F. The lot makes effective use of natural screening.
- G. There would be difficulty adding to the rear of the cabin because the existing structure is at ground level and there is a lot of rock.
- H. There are alternatives to granting the variance, including building the cabin at the 150 foot setback.
- I. There is an existing walking path from the garage to the cabin.

*Donna O'Connor*, Environmental Services, via report, stated that the Liston cabin is served by a pit privy installed in 1968 with no permit on file and a non-pressurized grey water system that was permitted on October 26, 1994. Any future septic system must meet the shallow well setback and 150 foot lake setback. Because the owner wishes to keep the property primitive with hand-carried water and a privy, no evaluation for a potential SSTS has been conducted on the 3.5 acre lot.

*Tyler Lampella* reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for variance(s) from three provisions of the ordinance. St. Louis County Ordinance 46 does not allow additions to principal structures of this size that do not conform to the lake setback.
2. The variance will not have an effect on government services because the use of the property is not changing.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the addition will not be readily visible.
4. The structure could be left as is and a different dwelling could be constructed at a greater lake setback.
5. The practical difficulty occurred because the construction of the existing cabin predates zoning and was built too close to the lake.

*Tyler Lampella* noted six items of correspondence from Eugene Zabinski, Paul Smith, Frederick Carron and Rebecca Rom, David Baier, Kathryn Oliver and Ward T. Nelson in support of this variance.

*Thomas Liston*, the applicant, stated the sleeping arrangements in the cabin consist of two shallow lofts that are accessed by ladder and pose an increasing physical hardship. The addition would be a small, ground-level sleeping quarters adjacent to the main living area of the cabin and is the most reasonable solution to this problem. The main alternative is to build a cabin that meets conformities. However, any new structure would need to be put behind the garage or sauna and that would encroach upon the power line. Some modification of the power line right-of-way would have to be made for natural aesthetics to be maintained. The new structure would be completely visible from the road, would require extensive grading and landscaping as the land is rocky and would add a significant carbon footprint. The second alternative to construct a bunkhouse at the setback, would alter the ambience associated with cabin living. Not one of the neighbors he has spoken to have an issue with what he has proposed. The new addition will have virtually no visual impact; the existing mix of trees and shrubs will shield the addition from view and vegetation to be removed is minimal.

The *Board of Adjustment* discussed the following:

- A. If a variance is granted, the structure would be over 400 square feet; would future owners be able to increase the size? *Tyler Lampella* stated that only the original ground floor footage would count and that is less than 400 square feet. The size of the structure and where it is located count against it for any addition. The structure does not meet the minimum setback from the lake.
- B. Board member *Coombe* stated that no structures are allowed without a variance. *Tyler Lampella* stated that Ordinance is clear about this situation. The structure is less than 400 square feet and is too close to the lake and no additions are allowed.
- C. Inquired about the elevation change. *Tyler Lampella* stated the area is relatively flat and there is not much elevation change.
- D. Board member *Filipovich* asked if a new structure was built, the cabin could the cabin remain at its present location. *Tyler Lampella* stated that if the new structure is built at the 150 foot setback where the garage and sauna are located, the current structure can remain. The structure would be considered a nonconforming bunkhouse.
- E. Board member *Werschay* asked if the roof could be raised on the cabin. *Tyler Lampella* stated that there is no expansion of the cabin allowed in its present location.

No audience members spoke on the proposal.

## **MOTION**

**Motion by Coombe/Johnson** to approve a variance to construct an addition to a nonconforming principal structure for the following reasons:

1. The applicant's request is substantial.
2. The variance will have no effect on government services as the building is already there and there will be no additional running water and the structure will not be seen from the road.
3. To pick up a cabin and move it back to the setback is not a feasible method; there is no

- feasible method to alleviate the variance request.
4. The owner did not build the structure. The owner maintains the structure and wants a 10 foot by 13 foot addition.
  5. The interest of justice will be served by allowing this variance.

There are no conditions included in the motion.

### **DISCUSSION ON MOTION**

Board member *Peterson* stated that Mr. Liston is a good steward of the land and asked if there was a way to lock in this variance. *Mary Anderson*, St. Louis County Planner, stated that the Board has put conditions on variances before saying no further development on the property or no further additions be allowed. Staff cannot prevent someone from applying for a variance. Any future additions or development would require a variance anyway and a future Board of Adjustment would have to hear a case on this property. The condition could be added, but that will not prevent any future owner from applying.

Board member *Coombe* stated that he tried to add a condition in a previous case about no development allowed in the shore impact zone. *Mary Anderson* stated that no structures are allowed in the shore impact zone on a natural environment lake without a variance. The condition could be added, but any future applicant has the right to apply for a variance.

Board member *Pollock* asked if the cabin would be grandfathered in with the new addition. *Tyler Lampella* stated that the structure would be too large for a bunkhouse. In the future, if there is a dwelling constructed on the property, the structure may need to be removed.

### **DECISION**

The motion, as stated above, was approved as follows:

**In Favor:** Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

**Opposed:** None – 0

**Motion carried 6-0**

The fifth hearing item was for *David Kohne*, S4, T55N, R12W (Ault) at 6559 Morris Thomas Road, Cloquet. *Jenny Bourbonais*, St. Louis County Planner, reviewed the staff report on behalf of Mark Lindhorst, as follows:

- A. The request is for a new cabin that will replace an existing mobile home at the same location.
- B. The actual road cuts through a majority of the lots in the plat.
- C. The cabin will meet all other setbacks.
- D. There is an existing screenhouse on the property.
- E. The structures are very well screened from the lake.

*Ed Kerzinski*, Environmental Services, via report, stated that permit 61(1-5) was issued on May 8, 1986. The permit was issued for a seasonal cabin with no indoor plumbing and no grey water. The system consists of a pit privy. The owner states the proposed new cabin would have no indoor plumbing and no grey water generated inside the cabin.

*Jenny Bourbonais* reviewed staff's conclusions as follows:

1. The request of the applicant is not substantial because the applicant is asking for variance of 30 feet from the centerline of a private road where St. Louis County Ordinance 46 requires 68 feet. This is a private road that serves only three cabin sites.
2. The variance will not have an effect on government services because it is accessed off a private road and is intended for seasonal use.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the proposed structure will be located within the existing open area of the parcel, the setback is 110 feet from the shoreline and is well screened by the natural vegetated shoreline.
4. The applicant could request a smaller structure and move it to the required 100 foot setback; however, this is more of a private driveway than a road with only two other landowners using the road. The applicant and their neighbors are also looking at moving the road back to provide more lot area but no time table has been determined.
5. The practical difficulty occurred when the road was built where it currently is instead of where it is shown on the plat.

*Jenny Bourbonais* noted no items of correspondence.

*David Kohne*, the applicant, stated that they want their privacy which is why they want the cabin at the proposed location. The location of the cabin will also give them privacy from the road. There will be no sinks or indoor plumbing. They have future intentions to move the existing road back as far as they can. He has also talked to his neighbor about acquiring more land in the future.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* inquired what would be done with the existing mobile home. *David Kohne* replied that they will park the mobile home on the other side of the road to use until the cabin is built. They do not plan to destroy the mobile home, it will eventually be moved away from the property.
- B. Board member *Coombe* asked if there would be running water and indoor plumbing inside the cabin. *David Kohne* stated that there would be none. They may change their mind in the future. Board member *Pollock* stated that a holding tank would be a last case scenario and is surprised that the applicants are not planning on any bathrooms or drain lines.

No audience members spoke on the proposal.

## **DECISION**

**Motion by Peterson/Coombe** to approve a variance to allow a new cabin at a reduced road centerline setback based on the findings and conclusions of staff. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. The existing mobile home shall be removed within one year of the issuance of a land use



permit.

3. If the applicant elects to destroy the mobile home, all demolition material and other waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

**In Favor:** Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

**Opposed:** None – 0

**Motion carried 6-0**

The sixth hearing item was for *Joseph Olson*, S23, T53N, R19W (Meadowlands) at 7591 Highway 47, Meadowlands. *Jenny Bourbonais*, St. Louis County Planner, reviewed the staff report on behalf of Mark Lindhorst, as follows:

- A. The request is for a garage and a house at reduced shoreline setback.
- B. The issues with the property include the location of a ravine in relation to the required setback, the location of the well and septic system and a wetland complex to the south.
- C. The septic system is located near the existing development.
- D. If the proposed dwelling was moved to the other side of the ravine, the dwelling would be located 150 feet from the septic system.

*Ed Kerzinski*, Environmental Services, via report, stated permit 564(1-1) was issued on June 14, 1985. The permit was issued for a two bedroom dwelling. The system was inspected on July 9, 1985. The ISTS consists of a 1,000 gallon septic tank with 260 lineal feet of standard three foot wide trench. Future expansion area is available near the current trench system and also behind the existing barn towards the mobile home.

*Jenny Bourbonais* reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for variance(s) of 158 and 159 feet from the shoreline where St. Louis County Ordinance 46 requires 200 feet.
2. The variance will not have an effect on government services because the parcel is accessed off of a public road and is serviced by a permitted septic system.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because this has been homesteaded since the 1940's. The current owner has removed several nonconforming buildings and is proposing to remove an additional nonconforming accessory building. The applicant has retained excellent screening along the river.
4. The applicant could build in back of the small drainage ravine, however, that would place his structure over 150 feet from his well and current septic system. The property to the south consists of a large wetland complex.
5. The practical difficulty occurred when the property was homesteaded prior to land use zoning regulations. River setbacks have changed from 150 feet to 200 feet with the adoption of the Whiteface Corridor Management Plan.

*Jenny Bourbonais* noted no items of correspondence.

*Diane Olson*, the applicant, stated they have lived on the property for 26 years. The existing mobile home is in rough shape and they want to replace it. The existing garage is falling apart. They have planted many trees along the river and structures cannot be seen past fifty feet.

*Mark Olson*, the applicant, stated that *Mark Lindhorst*, St. Louis County Planner, walked the land and used a GPS device to measure the lines. They are twenty feet in elevation, above the water.

No audience members spoke on the proposal.

## **DECISION**

**Motion by Peterson/Werschay** to approve a variance to allow a garage and house at reduced shoreline setbacks based on the findings and conclusions of staff. The following conditions shall apply:

1. The structures shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Demolition debris from the removal of the buildings shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

**In Favor:** Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

**Opposed:** None – 0

**Motion carried 6-0**

The seventh hearing item was *Susan Knauer*, S21, T62N, R15W (Breitung) at 25282 Norway Lane, Nisswa. *Jenny Bourbonais*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is to replace an existing dwelling with a new dwelling located 37 feet from Lake Vermilion at the closest point.
- B. The property is located on an island.
- C. The existing structure may be used as a boathouse.
- D. The location of the dwelling is based on where a septic system will go.

*Donna O'Connor*, Environmental Services, via report, stated that the Knauer property is served by a pit privy, with no permit on file. The system is considered failing. An SSTS designer has conducted a preliminary evaluation of the Knauer property. An area in the approximate middle of the island has been identified as the best area for primary and alternate septic sites. These areas will meet the required 50 foot lake setback. The system will consist of bottom draining peat filters on a rock bed. The existing privy must be abandoned and expansion area preserved.

*Jenny Bourbonais* reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for a variance of 37 feet from lakeshore where St. Louis County Ordinance 46 allows a structure to be placed 75 feet from the lakeshore. This is a 38 foot difference in setback requirement. However, due to the shape of the property, any redevelopment would require a variance from lake setback requirements.
2. The variance will not have an effect on government services because septic area has been identified in the most suitable area and at the required lake setback. There has been

established use on this property.

3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because as stated previously, there is existing use and development on this property and the proposed replacement would be in the same location.
4. Due to the unique shape and proposed septic location, no alternatives exist that would not require some sort of lake setback variance. Lake Vermilion mitigation standards could be used to decrease the extent of the variance being requested.
5. The practical difficulty occurred because of the location of existing development on the island the shape of the island and the proposed septic area location.
6. , Staff recommends that the variance should be approved because practical difficulty has been demonstrated.

*Jenny Bourbonais* noted no items of correspondence.

*Steve Abrahamson*, Tower, MN, spoke on behalf of the applicant. He stated that the applicant has had a septic site evaluated. The cabin will not be more visible than it already is. There would be a minimal number of trees removed. He stated that Salo Island has a new cabin that is near 20 feet in height and it blends in well.

*Don Sederstrom*, 5492 North 2<sup>nd</sup> Street, Tower, spoke in favor of the variance with a concern about the height of the structure. He believes that the profile will be changed by a 20 foot height and that it is excessive for the size of structure.

The *Board of Adjustment* discussed the following:

- A. Board member *Pollock* inquired if Breitung Township had been contacted. *Mary Anderson*, St. Louis County Planner, stated Breitung Township was notified but they did not comment.
- B. Board member *Coombe* asked what the intent of this variance was. *Steve Abrahamson* stated that the applicant's intent is to sell the island property. It is difficult to sell a one room cabin. They determined what would be a reasonable use of the island.
- C. Board member *Johnson* asked if the applicant intends to construct the new cabin or sell the property with the variance. *Steve Abrahamson* stated that the applicant intends to sell the property with the variance. Board member *Werschay* added that the variance will make the property more sellable.

## **FIRST MOTION**

**Motion by Coombe** to approve a variance for a principal structure at a reduced shoreline setback of 37 feet where 75 feet is required based on the findings and conclusions of staff. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Required Lake Vermilion Plan mitigation points shall be implemented.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.
4. If the existing cabin is not used as a boathouse, demolition debris from the removal of the

building shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

The motion received no second. Motion failed.

## **SECOND MOTION**

**Motion by Peterson** to deny the variance for a principal structure at a reduced shoreline setback where 75 feet is required because the Board should see a sketch of what is being built and a blanket variance does not seem appropriate. This motion received no second. Motion failed.

## **THIRD MOTION**

**Motion by Pollock/Peterson** to deny the variance for a principal structure at a reduced shoreline setback where 75 feet is required because there are options that have not been fully explored on how to situate the structure.

## **DISCUSSION ON THIRD MOTION**

Board member *Coombe* inquired how the Board could deny a variance because they do not like the information they were given. There is nothing in Ordinance 46 that requires an interior schematic. They need information on the size and height of the structure and can vote on that. The Board does not have the right to tell an applicant how to build their structure. Ordinance allows a structure height of 20 feet.

Board member *Pollock* added that the setback is 39 feet from shore. The applicants are building a cabin because there is a septic situation and there are other options on the island.

Board member *Coombe* stated that if the cabin was moved to the middle of the island, they would gain only an additional twenty feet. There is not enough room to move the cabin to meet the lake setback.

*Mary Anderson*, St. Louis County Planner, stated she worked with *Steve Abrahamson* at length. They measured the whole island and tried different schematics. The proposed location is the only feasible location. Under state statute, the applicants could rebuild the exact same structure in the exact same location. Staff thinks that this is a reasonable proposal. This is the least obtrusive proposal.

Board member *Peterson* asked if it is customary to grant a variance when it is not known what is going on at that location. *Mary Anderson* stated that the Board has granted variances in the past. The new owner or seller has come in for a variance. Staff does not design homes for applicants nor does staff enforce a building code. Staff looks at the building footprint and location of the proposal on the property.

Board member *Filipovich* added that not every applicant knows that their property is going on the market. He said that *Steve Abrahamson* was up front about the property being sold.

Board member *Pollock* stated that the applicants could build the same structure over again and there will be a septic system. This will make the property more valuable to the seller.

Board member *Pollock* withdrew motion three.

#### **FOURTH MOTION**

**Motion by Coombe/Peterson** to approve a variance to allow a principal structure at a reduced shoreline setback of 37 feet where 75 feet is required based on the findings and conclusions of staff. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Required Lake Vermilion Plan mitigation points shall be implemented.
3. The shore protection zone shall be preserved in a natural state and screening shall be retained.
4. If the existing cabin is not used as a boathouse, demolition debris from the removal of the building shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.

#### **DISCUSSION ON THE FOURTH MOTION**

*Mary Anderson* stated that the 20 foot height is what is allowed by Ordinance 46 in the shore impact zone. That is what everyone is entitled to build. The Board does not have the option to minimize the height when ordinance allows a certain height. She added that under the Lake Vermilion mitigation points, the applicants are required to preserve screening. It is within the Board's right to require that a plan to preserve screening be submitted prior to a land use permit being issued. They have to choose a number of mitigation points. One of the points is to fix the septic system as right now there is no conforming privy on the property. An extra condition could be made for the current owner or future owner that once the land use permit is applied for, they have to submit a vegetation removal plan.

Board member *Coombe* added two additional conditions to the motion:

5. A plan shall be submitted and approved to maximize and preserve the existing vegetative screening.
6. Dark sky lighting shall be utilized to minimize the development on the property at night.

#### **DECISION**

The motion with added conditions 5 and 6 as stated above by Board member *Coombe*, was approved as follows:

**In Favor:** Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

**Opposed:** None – 0

**Motion carried 6-0**